

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

Q63124

Mail Stop AF
Commissioner for Patents
P.O. Box 1450 Alexandria, VA 22313-1450

Application Number

09/809,273

Filed

March 16, 2001

First Named Inventor

Hiroyuki NISHII

Art Unit

1794

Examiner

Dawn L. Garrett

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

☒ I am an attorney or agent of record.

Registration number 47, 121


Signature

Keiko K. Takagi

Typed or printed name

(202) 293-7060

Telephone number

December 23, 2008

Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q63124

Hiroyuki NISHII, et al.

Appln. No.: 09/809,273

Group Art Unit: 1794

Confirmation No.: 4971

Examiner: Dawn L. Garrett

Filed: March 16, 2001

For: MEMBER FOR ELECTROLUMINESCENT DEVICE AND ELECTROLUMINESCENT DEVICE
HAVING THE SAME

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 8, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue: (1) claims 4, 10, 12, 13, 15 and 17 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Wakamatsu et al. (US 4,667,814); (2) claim 15 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Wakamatsu; and (3) claims 10, 12 and 17 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Wakamatsu in view of Biebuyck et al.

The Examiner asserts that the container 2 of Wakamatsu is a "[s]heet (2) is considered to be a "flat" sheet that is shaped. This is the same type of sheet formation depicted in instant Figures 1 and 6." The Examiner further asserts that the claims do not exclude a member from

DRAFT PRE-APPEAL BRIEF REQUEST FOR REVIEW
Attorney Docket Q63124
U.S. Application No. 09/809,273

comprising a shaped sheet and asserts that Figs. 1 and 2 show a sheet from which the member is made is cornered or formed into a concave shape. The Examiner further asserts that the claims do not exclude a molded object and that "made of two flat sheets" do not require a particular form of the sheet for the final product of the member.

Applicants respectfully disagree and submit that the present invention is neither anticipated by nor obvious by the cited art.

First, Wakamatsu discloses reference 2 as being a "container", which is clearly different from a flat sheet.

Second, Wakamatsu discloses that reference 2 is a blister ***molded*** cup-like plastic container. Thus, Wakamatsu does not disclose, teach or even suggest that container 2 is a container formed by shaping a flat sheet.

Third, the container depicted in Figs. 1 and 2 of Wakamatsu is clearly different from that of Fig. 1 of the present application. Fig. 1 is not a molded or shaped container as can be seen when viewing Fig. 2, which is a perspective view of Fig. 1. Fig. 2 shows the presence of the removing agent between two flat sheets - e.g., the dotted lines outlining the presence of the removing agent.

The Examiner's interpretation of Fig. 1 as having "corners" and Fig. 2 as forming a concave shape is incorrect, and the Examiner appears to be improperly interpreting the claims in view of the Figures and by ignoring the specification. The specification discloses that the container made of two flat sheets is different from the container of Wakamatsu. For example, the specification discloses methods of making the porous sheet, for example, (1) a dry process

DRAFT PRE-APPEAL BRIEF REQUEST FOR REVIEW
Attorney Docket Q63124
U.S. Application No. 09/809,273

comprising extruding a molten resin into *film* and stretching the extruded *film* at low temperature and then at high temperature to make the *film* porous, (2) a wet process comprising extruding a molten resin mixed with an extractable into *film*, stretching the extruded *film*, and removing the extractable by solvent extraction, etc. to leave pores, and (3) a process comprising fusing resin particles under pressure to form a porous block, which is sliced into *film* (or from which a container shape, etc. is carved, which is directed to another embodiment of the invention as, for example, depicted in Fig. 5). *See* page 6 of the specification.

The present specification also discloses how the container is formed by interposing the removing agent 12 between the porous sheet 11 and the non-porous sheet 13 as shown in Figs. 1 and 2, and the peripheries of the two sheets 11 and 13 are sealed by, for example, application of an adhesive or a pressure-sensitive adhesive, heat-sealing, mechanical intermeshing, and the like. *See* page 8 of the specification.

Accordingly, the claim language and the specification clearly distinguish the container made of two flat sheets of claim 1 from container 2 of Wakamatsu.

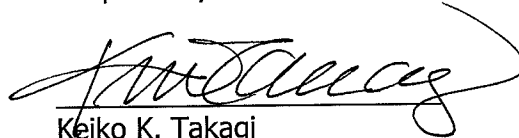
For at least the above reasons, it is respectfully submitted that Wakamatsu, alone or in combination with Biebuyck, fails to disclose, teach or suggest every element of independent claim 1, or the claims depending therefrom.

Thus, the present invention is neither anticipated or rendered obvious by the cited art.

DRAFT PRE-APPEAL BRIEF REQUEST FOR REVIEW
Attorney Docket Q63124
U.S. Application No. 09/809,273

Accordingly, Applicants respectfully request reconsideration of the rejections under 35
U.S.C. § 102(b) and 103(a).

Respectfully submitted,



Keiko K. Takagi
Registration No. 47,121

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

Date: December 23, 2008